

CITY OF GAITHERSBURG, MARYLAND  
PUBLIC NOTICE OF EXECUTIVE ORDER TEMPORARILY EXTENDING  
FOR THE CITY OF GAITHERSBURG THE LEGAL TIME REQUIREMENTS  
REGARDING ESTABLISHMENT OF USES ON PROPERTY  
UNDER AN APPROVED SITE DEVELOPMENT PLAN

This notice is given by the City Manager of the City of Gaithersburg acting pursuant to the Proclamation of Governor Lawrence J. Hogan, Jr. (the “Governor”) dated March 5, 2020 proclaiming a state of emergency and a catastrophic health emergency related to COVID-19, as it may be amended or renewed from time to time, and the Order of the Governor dated March 12, 2020 entitled “Extending Certain Licenses, Permits, Registrations, and Other Governmental Authorizations, and Authorizing Suspension of Legal Time Requirements,” as it may be amended from time to time (altogether, “Governor’s Order”), after finding that the action(s) described herein will not endanger the public health, welfare, or safety.

Due to the Governor’s Order, the City Manager of the City of Gaithersburg on March 13, 2020 issued an order closing City facilities, followed by several orders requiring the majority of City staff to work from home and limiting public access to City facilities. Since the March 12, 2020 Governor’s Order, developers of property in the City and across the state have experienced impacts from COVID-19 that have impacted their ability to move forward with development projects in the City.

The Gaithersburg City Code at Sec. 24-173 provides timelines for development of property subject to approved Site Development Plans. These timelines include:

- Gaithersburg City Code Sec. 24-173(a) specifies that “One or more of the uses proposed for land which is the subject of the site development plan shall be established on such land within two (2) years after the date of approval of the plan or the plan shall become void;” and
- Gaithersburg City Code Sec. 24-173(a) further allows the Planning Commission to “extend such time upon request filed within the two year period and may further grant a one-year extension upon request filed within the period of any extension;”
- Gaithersburg City Code Sec. 24-173(a) further provides that “the total length of the original approval and extension [of a Site Development Plan] shall not exceed three (3) years.”

The Governor’s Order authorizes the head of the City government to suspend the effect of any legal or procedural deadline, due date, time of default, time expiration, period of time, or other time of an act or event described within any State or local statute, rule or regulation that the City administers, upon a finding that such suspension will not endanger the public health, welfare or safety; after notification to the Governor; and contingent upon the provision of public notice.

I therefore find that due to the Governor’s Order and the impact of COVID-19 on development activities within the City, some developers may not be able to comply with the above provisions of the City Code and establish uses on property pursuant to Site Development Plans within the timelines established by the City Code during the state of emergency declared in the Governor’s Order.

The Governor's Order has been interpreted to allow political subdivisions of the State to extend temporarily the site development plan timelines as they apply to each local government, and I find that this power applies to local governments, including the City, per Section III of the Governor's Order. I therefore conclude that the City administers its planning and zoning processes pursuant to authority delegated to the City per §5-213 of the Local Government Article and Division I of the Land Use Article of the Annotated Code of Maryland. The Governor's Office has found that each local government has the authority to administer its own zoning regulations, as does the City. I therefore conclude that the City is considered the local administrator for City compliance with its zoning laws, as contained in Chapter 24 of the City Code.


I further find that the temporary extension of those timelines that the City administers during the state of emergency will not deprive any person of their due process rights.

I finally find that the temporary extension of those timelines will not endanger the public health, welfare or safety, as I find that not temporarily extending those timelines may result in significant business impacts on developers, including placing their employees at risk, and may therefore endanger the public health, welfare or safety, given the state of emergency and proclamation of catastrophic health emergency, and on that basis I hereby:

ORDER that the applicable timelines under Sec. 24-173(a) of the City Code as specified herein, upon written request by any developer with an approved site development plan scheduled to expire during the state of emergency, may be extended by the City Manager upon a finding of hardship on the developer if an extension is not granted during the state of emergency for the period of time necessary to overcome the hardship, based on my finding that such suspension will not endanger the public health, welfare or safety; and further

ORDER that reasonable public notice of this Notice be provided, by posting this Order on the City's website and by posting of this Notice at City Hall; and further

ORDER that this Order have no effect until the next business day after the Governor is notified of this Order Suspending for the City the Legal Time Requirements Regarding Site Development Plan Timelines, on which day following such notice to the Governor this Order shall go into effect and shall remain in effect until thirty (30) days after the Governor's Order has been terminated and the state of emergency and proclamation of the catastrophic health emergency therein stated has been rescinded.

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Signed:

Tanisha R. Briley,  
 City Manager

02/01/2021 | 3:33 PM EST

Dated